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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,723	08/01/2001	Robert Chambers	003797.00134	2449

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EXAMINER

OPSASNICK, MICHAEL N

ART UNIT	PAPER NUMBER
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2626

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/918,723	Applicant(s) CHAMBERS ET AL.	
	Examiner Michael N. Opsasnick	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 19-22 and 26-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 19-22 and 26-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. As per the Pre-Appeal Conference Decision dated 4/22/2006, the finality of the office action dated 12/8/2006 is withdrawn and prosecution on the merits has been reopened.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1,19-22,26-30,32-35 are rejected under 35 US 102(b) as being anticipated by Barker (5818800).

As per claims 1,30, Barker (5818800) teaches a method for use in a computing device having a microphone and a button (as computer and microphone – col. 3 lines 24-27) comprising:

“activating said microphone....said button” as activating microphone and button (col. 3 lines 29-35);

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“placing said device.....first type” as performing in dictation mode (col. 4 lines 28-38 and col. 6 lines 40-43);

“placing said device.....command mode” as actuating a button for commands (col. 4 lines 1-10; examiner notes that the referred to section on dictation includes spoken words; col. 3 line 60 – col. 4 line 10).

Claims 19,20,22,29 is an apparatus claim that incorporates the method of claim 1; therefore, claim 22 is similar in scope and content of claim 1, and therefore is rejected under similar rationale as presented against claim 1 above.

As per claims 21,26-29,32-35 Barker (5818800) discloses the use of a microphone integrated with a button to perform dictation and command recognition (col. 1 lines 59- col. 2 line 5; col. 2 lines 40-50 – speaking into the microphone while holding down a button, scrolling using the button by holding an releasing; asserting button for dictation – col. 3 lines 1-10 and col. 3 lines 25-30).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-16,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barker (5818800) in view of Walls (5969708).

As per claims 2-5,7-16,31, Barker (5818800) discloses the use of a microphone integrated with a button to perform dictation and command recognition (col. 1 lines 59-col. 2 line 5; col. 2 lines 40-50 – speaking into the microphone while holding down a button, scrolling using the button by holding an releasing; asserting button for dictation – col. 3 lines 1-10 and col. 3 lines 25-30). Barker (5818800) does not explicitly teach using a ‘press and release’ in conjunction with a ‘press and hold’ movement to represent the two functions respectfully. Walls (5969708), however, teaches integrating mouse buttons into one button, with a ‘press and quick tap’ to represent one function of the cursor, with a ‘press and hold’ to represent a second function with the cursor (col. 4 lines 22-53). Therefore, it would have been obvious to one of ordinary skill in the art of user input devices to modify the button structure of Barker (5818800) with a capability of ‘press and hold’ and ‘press and release’ within the same button because it would advantageously allow the user to semi-permanently choose a selection and at the same time, move the cursor to another portion of the workspace (Walls (5969708), col. 4 lines 40-44).

As per claim 6, the combination of Barker (5818800) in view of Walls (5969708) teaches gui buttons. (Fig. 2).

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Conclusion


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see related art listed on the PTO-892 form.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richemond Dorvil, can be reached at (571)272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mno
6/23/06


Michael N. Opsasnick
Examiner
Art Unit 2626